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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/695,137

Applicant(s)

HAWKER ET AL.

Examiner

DISLER PAUL

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-26;29-34;37-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-26;29-34;37-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 44 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter as *"modulating the volume levels of hands-free mode differently than for handset mode"* which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Response to Arguments

1. Applicant's arguments filed on 11/04/09 as in regard to "the safe volume profile providing a default volume setting selected to reduce risk of damage to a user's hearing if the mobile device is operated in close proximity to the user's ear while in the handsfree mode of operation" have *been fully considered and are non-persuasive*.

Since, Kraft, disclose of such concept of "storing a predetermined volume profile at the mobile device associated with a handsfree mode of operation, the volume profile providing a default volume setting for a speaker is selected during a situation as in the phone is operated in close proximity to the user's ear while in the handsfree mode of

operation" (Table-1-2, par [0020, 0022, 0024, 0037]/volume setting for a handfree mode operation may be selected by the user as desired & having such handfree mode when user wear headset at ear). Since the user with handsfree mode of operation may set the volume setting appropriately as desired with default status, it would have been obvious that by common sense the volume set by the user could have been a safe volume setting so that user's ears would be less likely being damaged.

Since, as disclose by the examiner : " the hand-free mode of operation" (Table-1-2, par [0020, 0022, 0024, 0037]/volume setting for a handfree mode operation may be selected by the user as desired & the examiner read the hand-free mode as when user wear headset at ear).

And thus, since such hands-free mode is when the user wear the headset at a selected user volume setting level and also having eh handset mode of operation when handsfree mode is off and situation such as driving, wherein the headset is away from the ear. and thus, it would have been obvious for one of the ordinary skill in the art to have such a situation wherein the user volume setting as either modes of operation to have the regular volume profile in handset being higher than the default setting of the volume profile of the handsfree in compensating for the speaker audio level in proximity to the user' ear according to each mode.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 25, 30-33, 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Yoo (US 2004/0185919) and Cook (US 6,434,407 B1).

Re claim 25, Kraft disclose of the method of processing a voice call at a mobile device, comprising: storing a predetermined volume profile at the mobile device associated with a handsfree mode of operation, the volume profile providing a default volume setting for a speaker is selected during a situation as in the phone is operated in close proximity to the user's ear while in the handsfree mode of operation (Table-1-2, par [0020, 0022, 0024, 0037]/volume setting for a handfree mode operation may be selected by the user as desired & having such handfree mode when user wear headset at ear). Since the user with handsfree mode of operation may set the volume setting appropriately as desired with default status, it would have been obvious that by common sense the volume set by the user could have been a safe volume setting so that user's ears would be less likely being damaged.

Thus, Kraft as modified would have disclosed of having the safe volume profile providing a default volume is selected to reduce the risk of damage to a user's hearing if the mobile device is operated in close proximity to the ear (Table 1-2; par [0022, 0024]/default volume having speaker as being connected to user's ear with the headset).

Kraft further disclose of answering an incoming call with the mobile device in the handset mode of operation according to a regular volume profile (table 1, par [0016]/the user may answer incoming phone in a handset mode of operation when the hands-free mode is off and thus, headset is remove away from the ear).

However, Kraft failed to disclose of the regular volume profile being higher than the default setting of the volume profile. But, since Kraft did disclose of adjusting the desired volume profile by the user in handset and default volume setting in handsfree by the user (Table-1-2; par [0010, 0015, 0022, 0032]/the user may manually adjust the volumes desired with the corresponding setting of hands-free or handset mode in proximity to the user]. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with incorporating such user volume setting as either modes of operation to have the regular volume profile in handset being higher than the default setting of the volume profile of the handsfree in compensating for the speaker audio level in proximity to the user' ear according to each mode.

However, Kraft failed to disclose of switching the mobile device from the handset mode of operation to handsfree mode of operation while processing the incoming call. But, Yoo disclose of a system wherein such concept of switching the mobile device from the handset mode of operation to handsfree mode of operation while processing the incoming call (Abstract, par [0006; 0009]) so as to safely continue carrying conversations on the phones. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with switching the mobile device from the handset mode of operation to handsfree mode of operation while processing the incoming call so as to safely continue carrying conversations on the phones.

While, the combined teaching of Kraft and Yoo as a whole, disclose operating the mobile device in the handsfree mode of operation according to the safe volume profile so as to protect the hearing of the mobile device user (Table 1-2). However, they fail to disclose of the specific wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker. But, Cook disclose of a system wherein such limitation speakers for different mode of operation and specifically wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker (fig.1 (105,125); col.1 line 53-60; col.2 line 19-23 & line 37-41; & line 50-57; col.3 line 34-40; col.1 line 10-14) in generating loud/audible signals without causing damage to the user's ear. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker for purpose of generating loud/audible signals without causing damage to the user's ear.

Re claim 33, Kraft disclose of the mobile device having a speaker, comprising : a memory for storing a volume profile associated with a handsfree mode of operation , the safe volume profile providing a default volume setting during a situation as in the speaker phone is operated in close proximity to the user's ear while in the handsfree mode of operation (fig.1 (10); Table-1, par [0020,0022, 0024]/ the user with handsfree mode of operation may set the volume setting appropriately as desired with detecting of head set at ear and the examiner read such hand-free mode when headset is at ear of user). Since the user with handsfree mode of operation may set the volume setting appropriately as desired with default status, it would have been obvious that by common sense the volume set by the user could have been a safe volume setting so that user's ears would be less likely being damaged.

Kraft further disclose of a transceiver for receiving and answering an incoming call (fig. 1-2; par [0010; 0016]); a mode control system for selecting the handset mode of operation to process the incoming call, the handset mode of operation having an associated regular volume profile (fig.1 (11); table 1, par [00126; 0016]/the user may answer incoming phone in a handset mode of operation when the hands-free mode is off).

However, Kraft failed to disclose of the handset mode of operation having a volume profile being higher than the default setting of the volume profile. But, since

Kraft did disclose of adjusting the desired volume profile by the user in handset and default volume setting in handsfree by the user (Table-1-2; par [0010, 0015, 0022, 0032]/the user may manually adjust the volumes desired with the corresponding setting of hands-free or handset mode in proximity to the user]. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with incorporating such user volume setting as either modes of operation to have the handset mode of operation having a volume profile being higher than the default setting of the volume profile in compensating for the speaker audio level in proximity to the user' ear according to each mode.

However, Kraft failed to disclose of the mode control system further comprising means for switching the mobile device from the handset mode of operation to the handsfree mode of operation while processing the incoming call. But, Yoo disclose of a system wherein such concept of the mode control system further comprising means for switching the mobile device from the handset mode of operation to the handsfree mode of operation while processing the incoming call (Abstract, par [0006; 0009]) so as to safely continue carrying conversations on the phones. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with the mode control system further comprising means for switching the mobile device from the handset mode of operation to the handsfree mode of operation while processing the incoming call so as to safely continue carrying conversations on the phones

The combined teaching of Kraft and Yoo as a whole, further disclose of the means for operating the mobile device in the handsfree mode of operation according to the safe volume profile so as to protect the hearing of the mobile device user (table 1-3; par [0020, 0026, 0032], user setting volume with the mode including the handsfree).

The combined teaching of Kraft and Yoo as a whole, fail to disclose of the specific wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker. But, Cook disclose of a system wherein such limitation speakers for different mode of operation and specifically wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker (fig.1 (105,125); col.1 line 53-60; col.2 line 19-23 & line 37-41; & line 50-57; col.3 line 34-40; col.1 line 10-14) for purpose of generating loud/audible signals without causing damage to the user's ear. Thus, taking the combined teaching of Kraft and Cole as a whole, it would have been obvious for one of the ordinary skill in the art to have modified Kraft with the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second

speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker for purpose of generating loud/audible signals without causing damage to the user's ear.

Re claim 30, the method of claim 25, further comprising: switching the mobile device from the handsfree mode of operation back to the handset mode of operation while processing the incoming call (Yoo, Abstract, par [0006; 0009]); and operating the mobile device in the handset mode of operation according to the regular volume profile (Table 1-2; par [0010, 0037];/mode may be changed with user preselected modes)

Re claim 31, the method of Claim 25, further comprising: prior to answering the incoming call with the mobile device, enabling a notification on the mobile device indicating the receiving of the incoming call ([table 1], [0016]).

Re claims 38-39 have been analyzed and rejected with respect to claims 30-31 respectively.

Re claim 32, the method of claim 31, further comprising: determining whether to answer the incoming call in response to the notification and diverting calls when not answered (table 1 and par[0015-0016]), But, the combined teaching of Kraft and Yoo and Cook as a whole, fail to disclose of the specific determining whether to redirecting the voice call to a voicemail system associated with the mobile device if the voice call if

not answered. However, official notice is taken that the limitation of redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered is commonly known in the art, thus it would have been obvious for one of the ordinary skill in the art to modify the combined teaching of Kraft and cook as whole, by incorporating the redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered enabling the phone user to hear miscall messages over the mobile phone.

Similarly Re claim 40 has been analyzed and rejected with respect to claim 32.

4. Claims 29, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Yoo and Cook (US 6,434,407 B1) and further in view of Schmidt (US 6,522,894 B1).

Re claim 29, the method of claim 25, But, the combined teaching of Kraft and Yoo and Cook as a whole, fail to further disclose of the comprising: defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation. However, Schmidt disclose a phone with mode of operation wherein the defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of

operation (co1.6 line 45-55). Thus, it would have been obvious for one of the ordinary skill in the art to modify the combination by incorporating the defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation for providing control volume with the operating mode.

Re claim 37, has been analyzed and rejected with respect to claim 29.

5. Claims 26, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Yoo and Cook (US 6,434,407 B1) and further in view of Shimizu et al. (US 2002/0031236 A1").

Re claim 26, the method of claim 25 with switch between modes, However, the combined teaching of Kraft and Yoo and Cook as a whole, fail to disclose of the further comprising disabling adjustment of the volume level from the default volume setting of the safe volume profile for a predetermined time period after the user has switched the mobile device from handset mode of operation to the handsfree mode of operation. But, shimizu et al. did disclose of the disabling of the adjustment of volume level from the safe default setting for a predetermined time period after the switching between modes by the user with rotation (page 7[0069]) for the purpose of preventing the user for switch the mode by mistake so that sound volume can be prevented from changing

considerably. Thus, it would have been obvious for one of the ordinary skill in the art to modify the combination by incorporating the disabling of the adjustment of volume level from the safe default setting for a predetermined time period after the switching between modes by the user for the purpose of preventing the user for switch the mode by mistake so that sound volume can be prevented from changing considerably.

Re claims 34, have been analyzed and rejected with respect to claim 26 above.

6. Claims 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1).

Re claim 41, Kraft et al. disclose of a method of processing a voice call by a mobile device that is configured to operate in handset mode in which the mobile device is placed against a user's ear and in handsfree mode in which the mobile device is held away from the user's ear (Table-1 (10); par [0022, 0032]/ having different mode for the mobile device), the method comprising: initially limiting the volume, when the mobile device is manually switched to handsfree mode, to a preset initial level (table -1; par [0015, 0020, 0022, 0035-0037] /the handsfree mode may manually switch or selected by the user and be used together with other settings and such hands-free mode may comprise user, sound volume define parameters.) and further and enabling the user to adjust the volume, while remaining in handsfree mode and after the volume has been initiated at the preset initial level, to another level than the preset initial level (Table-1

(7); par [0020,0022; 0032]/user may then adjust such volume setting in combination with the mode settings during such desired modes).

Similarly, it would have been obvious for one of the ordinary skill in the art to have tried in modifying such adjustment volume and other level than preset initial level as further including such specific as raising the volume to a level higher than the preset initial level for compensating in view of the surrounding noise condition.

Re claim 42, the method of claim 41 wherein the enabling step includes: enabling the user to raise the volume, while remaining in handsfree mode and after the volume has remained at the preset initial level, to a level higher than the preset initial level ((Table-1 (7); par [0015, 0020, 0022; 0032]/user may then adjust such volume after the initial level as set by the user).

Similarly, it would have been obvious for one of the ordinary skill in the art to have tried in modifying such raising the volume as specifically being raised the level only after the volume has remained at the preset initial level for a finite time period based on the designer's preference with producing no unexpected result while adjusting in view of the surround noise condition as disclosed by Kraft.

Re claim 43, the method of claim 42, similarly, it would have been obvious for one of the ordinary skill in the art to have tried in modifying the finite length with having such finite length of time is about a few seconds with producing no unexpected.

6. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Cook (US 6,434,407 B1).

RE claim 45, the method of claim 41 further comprising: emitting the voice call from a speaker when in handset mode and in handsfree mode (fig.1 (20); par [002]).

However, Kraft et al. fail to disclose of such emitting a voice from a first speaker when in handset mode and emitting the sound from a second speaker when in handsfree mode.

But, Cook disclose of a system wherein such emitting a voice from a first speaker when in handset mode and emitting the sound from a second speaker when in handsfree mode (fig.1 (105,125); col.1 line 53-60; col.2 line 19-23 & line 37-41; & line 50-57; col.3 line 34-40; col.1 line 10-14) in generating loud/audible signals without causing damage to the user's ear. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with emitting a voice from a first speaker when in handset mode and emitting the sound from a second speaker when in

handsfree mode for purpose of generating loud/audible signals without causing damage to the user's ear.

7. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Yoo (US 2004/0185919).

RE claim 46, the method of claim 41 wherein the initially limiting step includes: initially limiting the volume, when the mobile device is switched to the different modes (par [0015]).

However, Kraft fail to disclose of such switching as being from handset mode to handsfree mode in the middle of a conversation. But, Yoo disclose of a system wherein such concept of switching as being from handset mode to handsfree mode in the middle of a conversation (Abstract, par [0006; 0009]) so as to safely continue carrying conversations on the phones. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with switching as being from handset mode to handsfree mode in the middle of a conversation so as to safely continue carrying conversations on the phones.

8. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and Umemoto et al. (US 5,400,399).

RE claim 44, the method of claim 41, but, Kraft fail to disclose of such comprising the modulating the volume levels of handsfree mode differently than for handset mode. But, Umemoto et al. disclose of a system wherein the concept of modulating the volume levels of handsfree mode differently than for handset mode (fig.2B (4f, 4a; 33,3a) ; col.6 line 28-39/adjusting the level differently with different modes) for being in different modes and different level signals and thus, enable the user to speaker clearly and listen well while being away from the mobile device. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with incorporating the modulating the volume levels of handsfree mode differently than for handset mode for being in different modes and different level signals and thus, enable the user to speaker clearly and listen well while being away from the mobile device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DISLER PAUL whose telephone number is (571)270-1187. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. P./
Examiner, Art Unit 2614

/Xu Mei/
Primary Examiner, Art Unit 2614